

[Service Date January 4, 2006]

**BEFORE THE WASHINGTON STATE  
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND	)	DOCKET NO. TV-051482
TRANSPORTATION COMMISSION,	)	
	)	ORDER NO. 01
Complainant,	)	
	)	
v.	)	INITIAL ORDER DISMISSING
	)	COMPLAINT AGAINST: CASCADE
BUSBY, DAN D/B/A CAREFUL	)	MOVING & STORAGE, INC.;
MOVERS; CASCADE MOVING &	)	CUMMINGS MOVING SYSTEMS,
STORAGE, INC.; CUMMINGS	)	LLC; EMAD KADEM AL-MOSAWI
MOVING SYSTEMS, LLC; EMAD	)	D/B/A SUNSHINE MOVERS; G.J.
KADEM AL-MOSAWI D/B/A	)	DANIELS, INC.; HAROLD LEMAY
SUNSHINE MOVERS; FRANZ,	)	ENTERPRISES, INC.; HUTSON,
CLARA MARLENE D/B/A	)	CHARLES EDWARD D/B/A
PROGRESSIVE MOVERS; G.J.	)	HUTSON & SONS MOVING &
DANIELS, INC.; HAROLD LEMAY	)	PACKING; LINCOLN MOVING &
ENTERPRISES, INC.; HUTSON,	)	STORAGE CO., INC.; LINDSEY,
CHARLES EDWARD D/B/A HUTSON	)	JERRY D/B/A JERRY LINDSEY
& SONS MOVING & PACKING; W.W.	)	EXCAVATING; MASKELYNE
KASSNER D/B/A INDUSTRIAL	)	TRANSFER & STORAGE, INC.;
TRANSFER CO.; LINCOLN MOVING	)	METROPOLITAN MOVERS, INC.;
& STORAGE CO., INC.; LINDSEY,	)	POZZI BROTHERS
JERRY D/B/A JERRY LINDSEY	)	TRANSPORTATION, INC.; RISK ,
EXCAVATING; MASKELYNE	)	DON C., JR., D/B/A PEOPLE
TRANSFER & STORAGE, INC.;	)	MOVERS; SELL, WILLIAM L.;
MAUST CORP, THE;	)	SPECIALTY MOVING, INC.;
METROPOLITAN MOVERS, INC.;	)	SWAN'S MOVING & STORAGE
PACIFIC NORTHWEST MOTOR	)	CO., INC.; WASHINGTON
FREIGHT LINES, INC.; POZZI	)	MOVING & STORAGE, INC.,
BROTHERS TRANSPORTATION,	)	
INC.; RISK , DON C., JR., D/B/A	)	And CANCELLING HOUSEHOLD
PEOPLE MOVERS; SELL, WILLIAM	)	GOODS CARRIER PERMIT OF
L.; SPECIALTY MOVING, INC.;	)	BUSBY, DAN D/B/A CAREFUL
SWAN'S MOVING & STORAGE CO.,	)	MOVERS; FRANZ, CLARA
INC.; T & T MILK TRANSPORT, INC.;	)	MARLENE D/B/A PROGRESSIVE
WASHINGTON MOVING &	)	MOVERS; W.W. KASSNER D/B/A
STORAGE, INC.,	)	INDUSTRIAL TRANSFER CO.;
	)	MAUST CORP, THE; PACIFIC
Respondents.	)	NORTHWEST MOTOR FREIGHT
	)	LINES, INC.; T & T MILK
	)	TRANSPORT, INC.
.....	)	

- 1 ***Synopsis:** This initial order proposes to dismiss the Complaint and Order to Show Cause against fourteen household goods companies because they complied with reporting and fee requirements; and to dismiss the Complaint and Order to show cause against two companies that chose to voluntarily cancel their household goods carrier permits. In addition, this order proposes to cancel the household goods carrier permits of six household goods companies for failure to file an annual report as required by RCW 81.04.080, and failure to comply with reporting and fee requirements of WAC 480-15-480.*
- 2 **Nature of the Proceeding:** This is a proceeding in which the Commission ordered twenty-two household goods carriers to appear and show cause why their household goods permits should not be canceled.
- 3 **Procedural History:** On November 29, 2005, the Commission entered a Complaint and Order to Show Cause Why Permit Should Not Be Canceled For Failure to Pay Regulatory Fees and/or Failure to File 2005 Annual Report; and Notice of Hearing against Busby, Dan d/b/a Careful Movers (Careful Movers); Cascade Moving & Storage, Inc. (Cascade Moving); Cummings Moving Systems, LLC (Cummings Moving); Emad Kadem Al-Mosawi d/b/a Sunshine Movers (Sunshine Movers); Franz, Clara Marlene d/b/a Progressive Movers (Progressive Movers); G.J. Daniels, Inc. (G.J. Daniels); Harold Lemay Enterprises, Inc. (LeMay); Hutson, Charles Edward d/b/a Hutson & Sons Moving & Packing (Hutson Moving); W.W. Kassner d/b/a Industrial Transfer Co. (Industrial Transfer); Lincoln Moving & Storage Co., Inc. (Lincoln Moving); Lindsey, Jerry d/b/a Jerry Lindsey Excavating (Lindsey Excavating); Maskelyne Transfer & Storage, Inc. (Maskelyne Transfer); Maust Corp, The (Maust); Metropolitan Movers, Inc. (Metropolitan Movers); Pacific Northwest Motor Freight Lines, Inc. (Pacific Northwest); Pozzi Brothers Transportation, Inc. (Pozzi Brothers); Risk, Don C., Jr., d/b/a People Movers (People Movers); Sell, William L. (William Sell); Specialty Moving, Inc. (Specialty Moving); Swan's Moving & Storage Co., Inc. (Swan's Moving); T & T Milk Transport, Inc. (T & T Milk); Washington Moving & Storage, Inc. (Washington Moving); (collectively "the Companies"). The matter was heard upon due and proper notice by Administrative Law Judge (ALJ) Theodora M. Mace on December 19, 2005, in Olympia, Washington.

- 4     **Initial Order:** The presiding ALJ proposes to dismiss the Complaint against Cascade Moving; Sunshine Movers; G.J. Daniels; LeMay; Hutson Moving; Lincoln Moving; Lindsey Excavating; Maskelyne Transfer; Metropolitan Movers; People Movers; William Sell; Specialty Moving; Swan's Moving; and, Washington Moving because the evidence shows that they have complied with the reporting and fee requirements of RCW 81.04.080 and WAC 480-15-480.
- 5     The presiding ALJ proposes to dismiss the complaint against Cummings Moving and Pozzi Brothers because both companies voluntarily surrendered their household goods permits.
- 6     Finally, the presiding ALJ proposes to cancel the household goods carrier permits of Careful Movers; Progressive Movers; Industrial Transfer; Maust; Pacific Northwest; and T&T Milk for failure to file their 2005 annual report and, in some instances, to pay their regulatory fees for 2005.
- 7     **Appearances:** The Commission Staff is represented by Assistant Attorney General Jennifer Cameron-Rulkowski, Olympia, Washington. Specialty Moving is represented by David Wiley, attorney, Silverdale, Washington. No other respondent entered an appearance at the hearing.

### **DISCUSSION**

- 8     **Background.** Public service companies, including household goods carriers, are required to file an annual report with the Commission. *RCW 81.04.080*. In addition, they are required to file with the Commission a statement showing gross operating revenue from intrastate operations for the preceding calendar year, and to pay a fee to the Commission based on gross operating revenue. *WAC 480-15-480*. The Commission sends annual report forms to the address on record with the Commission for each household goods carrier permit holder. *Id.* Each permit holder must submit an annual report and remit regulatory fees by May 1 of each year. *Id.*
- 9     The Commission sent annual report forms to each of the respondents of record in this proceeding. A search of Commission records indicated that respondents failed to comply with reporting and/or fee requirements of RCW 81.04.080 and WAC 480-15-480 by May 1, 2005.

- 10 On November 29, 2005, the Commission served a complaint and order to show cause on respondents requiring them to appear before the Commission on December 19, 2005, to answer the complaint, and to show cause why their household goods carrier permits should not be canceled for failure to file an annual report as required by RCW 81.04.080, and failure to comply with reporting and fee requirements of WAC 480-15-480.
- 11 **Hearing.** At the hearing on December 19, 2005, Commission Staff presented the testimony of Ms. Betty Young, Compliance Specialist with the Commission's Businesses Practices Investigation Section. Ms. Young sponsored thirteen exhibits which were admitted in evidence. Ms. Young testified that respondents Cascade Moving; Sunshine Movers; G.J. Daniels; LeMay; Hutson Moving; Lincoln Moving; Lindsey Excavating; Maskelyne Transfer; Metropolitan Movers; People Movers; William Sell; Specialty Moving; Swan's Moving; and, Washington Moving complied with RCW 81.04.080 and WAC 480-15-480 by filing their annual reports and/or remitting their regulatory prior to the Show Cause hearing. *Tr. 7-13, 17-26, Exhibits 1-7; 9-14.* Ms. Young recommended that the Commission not cancel the permits of these companies because they are now in compliance with statutory and regulatory reporting and fee requirements. *Id.*
- 12 Ms. Young testified that, based on her investigation, the following companies did not file their 2005 Annual Reports or pay their 2005 regulatory fees: Careful Movers; Progressive Movers; Industrial Transfer; Maust; Pacific Northwest; Pozzi Brothers; and T&T Milk. Therefore, Ms. Young recommended that the Commission cancel the permits of these companies. *Tr. 12-20,*
- 13 Commission Staff moved to dismiss Cummings Moving from this proceeding because the company had filed a letter voluntarily cancelling its permit.
- 14 **Post-hearing Motion to Dismiss Pozzi Brothers.** On December 30, 2005, Commission Staff filed a motion to dismiss Pozzi Brothers from this proceeding. Staff stated that on December 16, 2005, Pozzi Brothers had filed a request to remove its household goods authority from its common carrier permit. The Commission granted the request on December 19, 2005.<sup>1</sup> Staff stated that it did not become aware of the company's voluntary surrender of its household goods authority until December 29, 2005, ten days after the evidentiary proceeding in this case.

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<sup>1</sup> Docket No. TV-051948, Order Reissuing Permit As Amended, December 22, 2005.

- 15     **Discussion and Conclusion.** The testimony and exhibits presented by Commission Staff establish that respondents Cascade Moving; Sunshine Movers; G.J. Daniels; LeMay; Hutson Moving; Lincoln Moving; Lindsey Excavating; Maskelyne Transfer; Metropolitan Movers; People Movers; William Sell; Specialty Moving; Swan's Moving; and, Washington Moving have complied with the reporting and fee requirements of RCW 81.04.080 and WAC 480-15-480. Accordingly, the proceedings against these respondents should be dismissed. Staff has also shown that Cummings Moving and Pozzi Brothers should be dismissed from this proceeding because they voluntarily surrendered their household goods operating authority.
- 16     For the remaining respondents, this order would recommend cancellation of their permits. The Commission's Notice of Hearing on the Complaint and Order to Show Cause specified that if a party failed to attend or participate in the hearing, it may be held in default in accordance with RCW 34.05.400 and WAC 480-07-450. Under circumstances such as these, the Administrative Procedure Act (RCW 34.05.440) and the Commission's rules (WAC 480-07-450) allow the presiding officer to proceed to resolve the case without further notice to, or hearing for the benefit of, the party in default. *RCW 34.05.440.*
- 17     The Commission may cancel a household goods carrier permit for good cause, including failure to submit an annual report or failure to pay regulatory fees. *WAC 480-15-450.* The un rebutted evidence presented by Commission Staff shows that Careful Movers; Progressive Movers; Industrial Transfer; Maust; Pacific Northwest; and T&T Milk violated Washington State law, and the Commission's rules. Therefore, the household goods permits of these companies should be cancelled.

### **FINDINGS OF FACT**

- 18     (1)     The Washington Utilities and Transportation Commission is an agency of the state of Washington, vested by statute with authority to regulate public service companies, including companies that hold authority to transport household goods in the state of Washington for compensation.
- 19     (2)     Each of the respondents of record in this proceeding are public service companies as defined in RCW 81.04.010 and hold authority to transport household goods in the state of Washington for compensation.

- 20       (3)     The Commission sent annual report forms and instructions to the address on record with the Commission for each of the named respondents.
- 21       (4)     A search of Commission records indicated that respondents failed to comply with reporting and/or fee requirements of RCW 81.04.080 and WAC 480-15-480 by May 1, 2005.
- 22       (5)     On November 29, 2005, the Commission entered a Complaint and Order to Show Cause ordering each respondent to appear and show cause why its permit should not be canceled.
- 23       (6)     During the Show Cause hearing on December 19, 2005, Commission Staff testified that respondents Cascade Moving; Sunshine Movers; G.J. Daniels; LeMay; Hutson Moving; Lincoln Moving; Lindsey Excavating; Maskelyne Transfer; Metropolitan Movers; People Movers; William Sell; Specialty Moving; Swan's Moving; and, Washington Moving filed their annual reports and/or remitting their regulatory prior to the hearing.
- 24       (7)     Staff testified that Cummings Moving filed a request for voluntary cancellation of its permit.
- 25       (8)     On December 30, 2005, Staff filed a motion to dismiss Pozzi Brothers from this proceeding because the Commission had granted the company's request to remove household goods authority from its common carrier permit.
- 26       (9)     Careful Movers; Progressive Movers; Industrial Transfer; Maust; Pacific Northwest; and T&T Milk failed to appear at the hearing on October 26, 2005, and show cause why their permits should not be canceled.
- 27       (10)    The files and records of the Commission show that Careful Movers; Progressive Movers; Industrial Transfer; Maust; Pacific Northwest; and T&T Milk failed to file their annual reports for 2004 or remit regulatory fees for 2005 in compliance with RCW 81.04.080 and WAC 480-15-480.

**CONCLUSIONS OF LAW**

- 28      (1)      The Washington Utilities and Transportation Commission has jurisdiction over  
the subject matter of this proceeding and all parties to this proceeding.
- 29      (2)      The Complaint and Order to Show Cause directed to Cascade Moving; Cummings  
Moving; Sunshine Movers; G.J. Daniels; LeMay; Hutson Moving; Lincoln  
Moving; Lindsey Excavating; Maskelyne Transfer; Metropolitan Movers; People  
Movers; Pozzi Brothers; William Sell; Specialty Moving; Swan's Moving; and,  
Washington Moving should be dismissed.
- 30      (3)      Good cause exists under WAC 480-15-450 to cancel the household goods carrier  
permits of Careful Movers; Progressive Movers; Industrial Transfer; Maust;  
Pacific Northwest; and T&T Milk.

**ORDER**

- 31      IT IS HEREBY ORDERED That Cascade Moving; Cummings Moving; Sunshine  
Movers; G.J. Daniels; LeMay; Hutson Moving; Lincoln Moving; Lindsey Excavating;  
Maskelyne Transfer; Metropolitan Movers; People Movers; Pozzi Brothers; William Sell;  
Specialty Moving; Swan's Moving; and, Washington Moving are each dismissed from  
this proceeding.
- 32      IT IS FURTHER ORDERED That the household goods carrier permits of Careful  
Movers; Progressive Movers; Industrial Transfer; Maust; Pacific Northwest; and T&T  
Milk are canceled.

DATED at Olympia, Washington, and effective this 4th day of January, 2006.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

THEODORA M. MACE  
Administrative Law Judge

**NOTICE TO THE PARTIES:**

This is an Initial Order. The action proposed in this Initial Order is not effective until entry of a final order by the Utilities and Transportation Commission. If you disagree with this Initial Order and want the Commission to consider your comments, you must take specific action within the time limits outlined below.

WAC 480-07-825(2) provides that any party to this proceeding has twenty (20) days after the entry of this Initial Order to file a *Petition for Administrative Review*. What must be included in any Petition and other requirements for a Petition are stated in WAC 480-07-825(3). WAC 480-07-825(4) states that any *Answer* to any Petition for review may be filed by any party within (10) days after service of the Petition.

WAC 480-07-830 provides that before entry of a Final Order any party may file a *Motion to Reopen* a contested proceeding to permit receipt of evidence essential to a decision, but unavailable and not reasonably discoverable at the time of hearing, or for other good and sufficient cause. No Answer to a Motion to Reopen will be accepted for filing absent express notice by the Commission calling for such answer.

One copy of any Motion or Answer filed must be served on each party of record, with proof of service as required by WAC 480-07-150(9). WAC 480-07-145(2) and (3) provide that an original and twelve copies of any Motion or Answer must be filed by mail delivery to:

Attn: Carole J. Washburn, Executive Secretary  
Washington Utilities and Transportation Commission  
P.O. Box 47250  
Olympia Washington 98504-7250.